

Part 6

Ethics Proceedings

63A-14-601 Title.

This part is known as "Ethics Proceedings."

Enacted by Chapter 426, 2013 General Session

63A-14-602 Review of ethics complaint by commission.

- (1) The scope of the commission's review of a complaint is limited to the alleged violations stated in the complaint.
- (2) Before holding a meeting for review of a complaint, the chair may schedule a separate meeting of the commission to:
 - (a) review a complaint, with or without the attendance of the parties, to determine if the complaint should be dismissed in whole or in part, by means of a majority vote of the commission, because the complaint pleads facts or circumstances against an executive branch elected official that have already been reviewed by the commission;
 - (b) hear motions or arguments from the parties, including hearing motions or arguments relating to dismissal of a complaint, admission of evidence, or procedures; or
 - (c) hold a vote of the commission, with or without the attendance of the parties, on procedural or commission business matters relating to a complaint.
- (3)
 - (a) The commission shall comply with the Utah Rules of Evidence except where the commission determines, by majority vote, that a rule is not compatible with the requirements of this chapter.
 - (b) The chair shall make rulings on admissibility of evidence consistent with the provisions of Section 63A-14-703.
- (4)
 - (a) The following individuals may be present during the presentation of testimony and evidence to the commission:
 - (i) the complainants, except that no more than three complainants may be present at one time;
 - (ii) the complainants' counsel, if applicable;
 - (iii) the respondent;
 - (iv) the respondent's counsel, if applicable;
 - (v) members of the commission;
 - (vi) staff to the commission;
 - (vii) a witness, while testifying before the commission; and
 - (viii) necessary security personnel.
 - (b) The complainants, respondent, and counsel for a complainant or respondent may be excluded from a portion of the meeting when the commission discusses administrative, procedural, legal, or evidentiary issues by:
 - (i) the order of the chair, subject to override as provided in Section 63A-14-703; or
 - (ii) a majority vote of the commission.
 - (c) When the commission deliberates at the conclusion of presentation of testimony and evidence, the commission shall ensure that those deliberations are closed to all persons except for the members of the commission and commission staff.

- (5) If a majority of the commission determines that a continuance is necessary to obtain further evidence and testimony, accommodate administrative needs, or accommodate the attendance of commission members, witnesses, or a party, the commission may:
- (a) after notice to the parties, adjourn and continue the meeting to a future date and time; and
 - (b) establish that future date and time by majority vote.

Enacted by Chapter 426, 2013 General Session

63A-14-603 Record -- Recording of meetings.

- (1)
- (a) Except as provided in Subsection (1)(b), an individual may not use a camera or other recording device in a meeting authorized by this chapter.
 - (b) The commission shall keep an audio or video recording of all portions of each meeting authorized by this part.
 - (c) If the commission elects, by a majority vote, to release in a public meeting the commission's finding that an allegation in the complaint has merit, the commission may, upon a majority vote of the commission, open the public meeting to cameras or other recording devices.
- (2) In addition to the recording required in Subsection (1)(b), the chair shall ensure that a record of the meeting is made, that includes:
- (a) official minutes taken during the meeting, if any;
 - (b) copies of all documents or other items admitted into evidence by the commission;
 - (c) copies of any documents or written orders or rulings issued by the chair or the commission; and
 - (d) any other information that a majority of the commission or the chair directs.
- (3) Except for a finding prepared by the commission that is classified as public under Section 63A-14-605, any recording, testimony, evidence, or other record of a meeting authorized by this chapter is a private record under Section 63G-2-302 and may not be disclosed.

Enacted by Chapter 426, 2013 General Session

63A-14-604 Process for making a decision -- Deliberations.

- (1)
- (a) After each party presents a closing argument, the commission shall, at the direction of the chair, begin private deliberations.
 - (b) The deliberations described in Subsection (1)(a) may be held:
 - (i) immediately after conclusion of the closing arguments; or
 - (ii) at a future meeting of the commission, on a date and time determined by a majority of the members of the commission.
- (2)
- (a) The chair shall conduct the deliberations.
 - (b) Upon a motion made by a commission member, the commission may exclude commission staff from all or a portion of the deliberations by a majority vote of the commission.
- (3)
- (a) During deliberations, for each allegation reviewed by the commission, each member shall determine and cast a vote stating whether the allegation is:
 - (i) proved, by clear and convincing evidence, to have merit; or
 - (ii) not proved to have merit.

- (b) A verbal roll call vote shall be taken on each allegation and each member's vote shall be recorded.
- (4)
 - (a) An allegation is determined to not have merit unless four of the five members of the commission vote that the allegation has merit.
 - (b) An allegation that is not determined to have merit is dismissed.
- (5)
 - (a) Before issuing an order or a finding under Section 63A-14-605, the commission may, upon a majority vote, reconsider and hold a new vote on an allegation.
 - (b) A motion to reconsider a vote may only be made by a member of the commission who voted in favor of the vote to be reconsidered.
- (6) At the conclusion of deliberations, the commission shall prepare an order or a finding in accordance with Section 63A-14-605.

Enacted by Chapter 426, 2013 General Session

63A-14-605 Order or finding of merit by the commission.

- (1) If the commission determines that all allegations in the complaint are without merit, the commission shall:
 - (a) issue and enter into the record an order that the complaint is dismissed because no allegations in the complaint were found to have merit;
 - (b) classify all recordings, testimony, evidence, orders, findings, and other records directly relating to the meetings authorized by this part as private records under Section 63G-2-302;
 - (c) provide notice of the determination, in a manner determined by a majority vote of the commission, to:
 - (i) the respondent; and
 - (ii) the first complainant named on the complaint; and
 - (d) provide notice to each person named in Subsection (1)(c) that, under the provisions of Section 63A-14-403 and other provisions of this chapter, a person who discloses the findings of the commission in violation of any provision of this chapter is in contempt of the commission and is subject to penalties for contempt.
- (2) If the commission determines that one or more of the allegations in the complaint have merit, the commission shall:
 - (a) if one or more allegations were not found to have merit, enter into the record an order dismissing the allegations that were found not to have merit;
 - (b) within 30 business days after the day on which the commission makes the determination, prepare a written finding, for submission to the Legislature, that:
 - (i) lists the name of each complainant;
 - (ii) lists the name of the respondent;
 - (iii) states the date of the finding;
 - (iv) for each allegation that was found to have merit:
 - (A) describes the high crime, misdemeanor, or malfeasance in office allegedly committed by the respondent;
 - (B) states the number and names of commission members who voted that the allegation has merit and the number and names of commission members who voted that the allegation does not have merit;

- (C) subject to Subsection (3), at the option of those members voting that the allegation has merit, includes a statement by one or all of those members stating the reasons that the members voted that the allegation has merit; and
 - (D) subject to Subsection (3), at the option of those members who voted that the allegation does not have merit, includes a statement by one or all of those members stating the reasons that the members voted that the allegation does not have merit;
 - (v) contains any general statement that is adopted for inclusion in the finding by a majority of the members of the commission;
 - (vi) describes the allegations found by the commission to have merit;
 - (vii) states the name of each member of the commission; and
 - (viii) is signed by each member of the commission;
 - (c) direct staff to publicly release the finding, the complaint, and the response, subject to the redaction of any allegations that were dismissed; and
 - (d) classify all other recordings, testimony, evidence, orders, findings, and other records directly relating to the meetings authorized by this chapter as private records under Section 63G-2-302.
- (3) A statement described in Subsection (2)(b)(iv)(C) or (D) may not cite specific evidence, specific testimony, or specific witnesses.
- (4) The commission shall ensure that, within five business days after the day on which the commission finishes preparing the written finding described in Subsection (2)(b):
- (a) the complaint and the response are redacted to remove references to the allegations found by the commission to be without merit;
 - (b) a copy of the finding is made publicly available and provided to:
 - (i) the respondent;
 - (ii) the first complainant named on the complaint;
 - (iii) the speaker of the House of Representatives;
 - (iv) the president of the Senate; and
 - (v) the governor; and
 - (c) the following documents are made publicly available and are provided to the speaker of the House of Representatives and the president of the Senate:
 - (i) a cover letter generally describing the allegations in the edited complaint that are found by the commission to have merit;
 - (ii) a copy of the edited complaint;
 - (iii) a copy of the edited response; and
 - (iv) a copy of the finding.

Enacted by Chapter 426, 2013 General Session

63A-14-606 Comments on complaint under review by Legislature.

- (1) Except as provided in Subsection (2), while a complaint is under review by the Legislature, a member of the commission may not comment publicly or privately about the commission's decision, reasoning, or other matters relating to the ethics complaint, but may provide or refer a questioner to the commission's written finding.
- (2) Subsection (1) does not prohibit statements made:
 - (a) to an individual authorized by the Legislature to conduct an investigation for the purpose of assisting the Legislature in conducting proceedings related to impeachment or removal from office;

- (b) to a legislative committee, the House, or the Senate in relation to proceedings for impeachment or trial of impeachment; or
- (c) as part of a criminal investigation.

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